

Wendy B. Shepps (WS1207)
PODVEY, MEANOR, CATENACCI,
HILDNER, COCOZIELLO & CHATTMAN, P.C.
570 Lexington Avenue
New York, New York 10022
(212) 432-7419

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CHAYA M. RONESS on behalf of
Herself and all other similarly situated
consumers,

Plaintiff,

- against-

COHEN & SLAMOWITZ, LLP,

Defendant.

Civil Action No.: 12-CV-3243

ANSWER

Defendant, COHEN & SLAMOWITZ, LLP (hereinafter “Defendant or “COHEN & SLAMOWITZ”), by its attorneys, PODVEY, MEANOR, CATENACCI, HILDNER, COCOZIELLO & CHATTMAN, P.C. hereby responds, upon information and belief, to the Plaintiff’s Complaint, as follows:

FIRST: Denies the truth of each and every allegation contained within paragraph “1” of Plaintiff’s Complaint.

SECOND: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “2” of Plaintiff’s Complaint.

THIRD: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “3” of Plaintiff’s Complaint and in

addition, refers all questions of law to the trial court for judicial determination.

FOURTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “4” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

FIFTH: Admits the truth of the allegations contained within paragraph “5” of Plaintiff’s Complaint.

SIXTH: Admits the truth of the allegations contained within paragraph “6” of Plaintiff’s Complaint.

SEVENTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “7” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

EIGHTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “8” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

NINTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “9” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

TENTH: Admits the truth of each and every allegation contained within paragraph “10” of Plaintiff’s Complaint.

ELEVENTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “11” of Plaintiff’s Complaint.

TWELFTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “12” of Plaintiff’s Complaint.

THIRTEENTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “13” of Plaintiff’s Complaint.

FOURTEENTH: Denies the truth of each and every allegation contained within paragraph “14” of Plaintiff’s Complaint.

FIFTEENTH: Denies the truth of each and every allegation contained within paragraph “15” of Plaintiff’s Complaint.

SIXTEENTH: Admits the truth of each and every allegation contained within paragraph “16” of Plaintiff’s Complaint.

SEVENTEENTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “17” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

EIGHTEENTH: Denies the truth of each and every allegation contained within paragraph “18” of Plaintiff’s Complaint.

NINETEENTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “19” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

TWENTIETH: Denies the truth of each and every allegation contained within paragraph “20” of Plaintiff’s Complaint.

TWENTY-FIRST: Denies the truth of each and every allegation contained within paragraph “21” of Plaintiff’s Complaint.

TWENTY-SECOND: Denies the truth of each and every allegation contained within paragraph “22” of Plaintiff’s Complaint.

TWENTY-THIRD: Denies the truth of each and every allegation contained within paragraph “23” of Plaintiff’s Complaint.

TWENTY-FOURTH: Denies the truth of each and every allegation contained within paragraph “24” of Plaintiff’s Complaint.

TWENTY-FIFTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “25” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

TWENTY-SIXTH: Denies the truth of each and every allegation contained within paragraph “26” of Plaintiff’s Complaint.

TWENTY-SEVENTH: Denies the truth of each and every allegation contained within paragraph “27” of Plaintiff’s Complaint.

TWENTY-EIGHTH: Denies the truth of each and every allegation contained within paragraph “28” of Plaintiff’s Complaint.

TWENTY-NINTH: Denies the truth of each and every allegation contained within paragraph “29” of Plaintiff’s Complaint.

THIRTIETH: Denies the truth of each and every allegation contained within paragraph “30” of Plaintiff’s Complaint.

THIRTY-FIRST: Denies the truth of each and every allegation contained within paragraph “31” of Plaintiff’s Complaint.

THIRTY-SECOND: Denies the truth of each and every allegation contained within paragraph “32” of Plaintiff’s Complaint.

THIRTY-THIRD: Denies the truth of each and every allegation contained within paragraph “33” of Plaintiff’s Complaint.

THIRTY-FOURTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “34” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

THIRTY-FIFTH: Denies the truth of each and every allegation contained within paragraph “35” of Plaintiff’s Complaint.

THIRTY-SIXTH: Denies the truth of each and every allegation contained within paragraph “36” of Plaintiff’s Complaint.

THIRTY-SEVENTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “37” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

THIRTY-EIGHTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “38” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination and the documents referred to therein speak for themselves.

THIRTY-NINTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “39” of Plaintiff’s Complaint and in addition, the documents referred to therein speak for themselves.

FORTIETH: Denies the truth of each and every allegation contained within paragraph “40” of Plaintiff’s Complaint.

FORTY-FIRST: Denies the truth of each and every allegation contained within paragraph “41” of Plaintiff’s Complaint and in addition, the documents referred to therein speak for themselves.

FORTY-SECOND: Denies the truth of each and every allegation contained

within paragraph “42” of Plaintiff’s Complaint and in addition, the documents referred to therein speak for themselves.

FORTY-THIRD: Denies the truth of each and every allegation contained within paragraph “43” of Plaintiff’s Complaint.

FIRST CAUSE OF ACTION

FORTY-FOURTH: Answering Defendant repeats, reiterates and realleges each and every denial and denial asserted upon information and belief in response to paragraph “1” through “44” of the Plaintiff’s Complaint, as if the same were repeated verbatim at length herein.

FORTY-FIFTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “45” of Plaintiff’s Complaint.

FORTY-SIXTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “46” of Plaintiff’s Complaint.

FORTY-SEVENTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “47” of Plaintiff’s Complaint.

FORTY-EIGHTH: Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “48” of Plaintiff’s Complaint.

FORTY-NINTH: Denies the truth of each and every allegation contained within paragraph “49” of Plaintiff’s Complaint, including subparagraphs (a) through (e).

FIFTIETH: Denies the truth of each and every allegation contained within paragraph “50” of Plaintiff’s Complaint.

FIFTY-FIRST: Denies the truth of each and every allegation contained within paragraph “51” of Plaintiff’s Complaint.

FIFTY-SECOND: Denies knowledge or information sufficient to form a belief as to

the truth of each and every allegation contained within paragraph “52” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

FIFTY-THIRD: Denies the truth of each and every allegation contained within paragraph “53” of Plaintiff’s Complaint.

FIFTY-FOURTH: Denies the truth of each and every allegation contained within paragraph “54” of Plaintiff’s Complaint.

**AS AND FOR ANSWERING DEFENDANT’S
FIRST AFFIRMATIVE DEFENSE**

Plaintiff’s Complaint fails to state a valid cause of action upon which relief may be granted.

**AS AND FOR ANSWERING DEFENDANT’S
SECOND AFFIRMATIVE DEFENSE**

The Plaintiff’s Complaint is not supported by documentary evidence.

**AS AND FOR ANSWERING DEFENDANT’S
THIRD AFFIRMATIVE DEFENSE**

Upon information and belief, the causes of action asserted in the Plaintiff’s Complaint against the Answering Defendant are barred in whole or in part by the doctrine of estoppel.

**AS AND FOR ANSWERING DEFENDANT’S
FOURTH AFFIRMATIVE DEFENSE**

If Plaintiff has incurred any damages herein, which claim is expressly denied, such damages are the result of her own culpable conduct.

**AS AND FOR ANSWERING DEFENDANT'S
FIFTH AFFIRMATIVE DEFENSE**

Defendant did not violate, in whole or in part, any provision of the FDCPA.

**AS AND FOR ANSWERING DEFENDANT'S
SIXTH AFFIRMATIVE DEFENSE**

To the extent a violation of any provision of 15 USC §1692 occurred, which violation is expressly denied, such violation was not intentional and resulted from a *bona fide* error notwithstanding reasonable procedures adopted to avoid any such error.

**AS AND FOR ANSWERING DEFENDANT'S
SEVENTH AFFIRMATIVE DEFENSE**

To the extent a violation of any provision of 15 USC §1692 occurred, which violation is expressly denied, such violation was the result of acts of non-agents, or agents acting outside the scope of their authority.

**AS AND FOR ANSWERING DEFENDANT'S
EIGHTH AFFIRMATIVE DEFENSE**

The instant action is barred by the expiration of the applicable statute of limitations.

**AS AND FOR ANSWERING DEFENDANT'S
NINTH AFFIRMATIVE DEFENSE**

Plaintiff is precluded by the doctrine of waiver and estoppel.

**AS AND FOR ANSWERING DEFENDANT'S
TENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to mitigate her damages.

WHEREFORE, Answering Defendant LAW OFFICES OF COHEN & SLAMOWITZ,

LLP, respectfully requests that this Court enter judgment herein dismissing Plaintiff's claims against them in their entirety, together with such other, further and different relief as this Court deems just and proper.

Dated: New York, New York
August 2, 2012

Respectfully Yours,

**PODVEY, MEANOR, CATENACCI, HILDNER
COCOZIELLO & CHATTMAN, P.C.**

A handwritten signature in black ink, appearing to read "Wendy B. Shepps", with a long horizontal flourish extending to the right.

By: _____
Wendy B. Shepps (WS1207)
Attorneys for Defendant
COHEN & SLAMOWITZ, LLP
570 Lexington Avenue
New York, New York 10022
(212) 432-7419
File No.: 004696.11963

TO: Adam J. Fishbein, P.C.
Attorneys for Plaintiff
483 Chestnut Street
Cedarhurst, New York 11516
(516) 791-4400

CERTIFICATE OF SERVICE

I, Wendy B. Shepps, hereby certify that on August 2, 2012, I electronically filed the foregoing Answer with the Clerk of the District Court using its CM/ECF system which would then electronically notify Adam J. Fishbein, Esq., counsel for the Plaintiff.

A handwritten signature in black ink, appearing to read "Wendy B. Shepps", with a long horizontal flourish extending to the right.

Wendy B. Shepps (WS 1207)